

EXHIBIT B

2016CI20291

CAUSE NO. _____

ST. RAPHAEL SURGERY CENTER	§	THE DISTRICT COURT OF
	§	
	§	
vs.	§	BEXAR COUNTY, TEXAS
	§	
	§	408TH
AETNA LIFE INSURANCE COMPANY	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE COURT:

COMES NOW Plaintiff ST. RAPHAEL'S SURGERY CENTER, LLC ("St. Raphael's"), and files its Original Petition complaining against Aetna Life Insurance Company ("Aetna") for cause of action and would respectfully show as follows:

DISCOVERY LEVEL

1. Plaintiff requests that this case proceed under a Level 3 Discovery Control Plan.

PARTIES

2. Plaintiff, St. Raphael's Surgery Center, LLC is a Texas limited liability company, licensed as a surgery center with its principal place of business in San Antonio, Bexar County, Texas.

3. Defendant Aetna Life Insurance Company is an insurance company doing business in San Antonio, Bexar County, Texas, and may be served with process by serving its registered agent for service, CT Corporation System, 1999 Bryan St, Ste 900, Dallas TX 75201-3136.

JURISDICTION AND VENUE

4. This Court has jurisdiction over Defendant because it does business in San Antonio, Bexar County, Texas. Defendant's acts and omissions giving rise to this lawsuit took place in San Antonio, Bexar County, Texas. This Court has jurisdiction over the controversy because the damages exceed the jurisdictional minimums of the Court.

5. Venue is proper in Bexar County, Texas pursuant to §15.002 of the Texas Civil Practice and Remedies Code because all or a substantial part of the events giving rise to these claims occurred in Bexar County, Texas.

FACTUAL BACKGROUND

6. St. Raphael's is a surgery center caring for patients in San Antonio, Texas.

7. Patient MA, a member of an Aetna health plan, was referred to St. Raphael's for a cochlear device implantation. On August 13, 2015, Aetna issued a letter of coverage to patient MA and St. Raphael's specifically representing that it would cover the procedure (code 69930) and the implant (code L8614) and stating, while referencing the above 2 codes: "Coverage for this service has been approved...."

8. Based on the coverage agreement between St. Raphael's and Aetna consummated on August 13, 2015 and the representations to St. Raphael's by Aetna on that same date, St. Raphael's pursued their obligations under the agreement to Aetna's member and relied on Aetna's representations by scheduling and then performing the cochlear implant procedure on December 10, 2015.

PLAINTIFF'S CAUSES OF ACTION

A. Breach of Contract

9. St. Raphael's incorporates by reference all of the allegations set forth in paragraphs 1 through 8 as if alleged verbatim.

10. St. Raphael entered into a contract with Aetna for the payment of facility fees (code 69930) in the amount of \$163,704.00 and the implant *(code L8614) in the amount of \$115,950. Aetna paid only \$774.00 for the facility fee and zero for the implant, an out of pocket cost.

11. Demand has been made on Aetna failed to make required payments on the contract, but Aetna has refused to pay.

B. Negligent Misrepresentation

12. St. Raphael's incorporates by reference all of the allegations set forth in paragraphs 1 through 11 as if alleged verbatim.

13. In the course of its dealings with St. Raphael's, Aetna affirmatively represented to patient MA and St. Raphael's that it would cover the facility fee for the cochlear implant procedure (code 69930) and the fee for the implant (code L8614). In reliance on that representation, St. Raphael's scheduled and went forward with the procedure on December 10, 2015.

14. The representations made by Aetna turned out to be false and inaccurate as Aetna had paid essentially nothing for the facility fee and zero for the implant. Aetna failed to exercise reasonable care or competence in verifying and communicating this information to St. Raphael's and St. Raphael's was injured as a result of this failure.

CONDITIONS PRECEDENT

15. All conditions precedent to Plaintiff's claims for relief have been performed, have occurred, or are excused.

PRAYER

WHEREFORE, Plaintiff St. Raphael's Surgery Center respectfully requests that, upon final hearing hereof, the Court enter judgment awarding Plaintiff:

16. Compensatory damages;
17. Attorneys' fees, court costs, and litigation expenses incurred in protecting Plaintiff's interests and in bringing this action;
18. Pre- and post-judgment interest as provided by law; and
19. Such other and further relief to which Plaintiff is justly entitled.

Respectfully submitted,

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